

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DIQUAN BOOKER,

Plaintiff,

-against-

SGT. FLINT; OFFICER MURPHY;
OFFICER HUBBS,

Defendants.

22-CV-4170 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who is currently incarcerated at Washington Correctional Facility (“Washington”), brings this *pro se* action under 42 U.S.C. § 1983, alleging that Defendants Sergeant Flint, Officer Murphy, and Officer Hubbs violated his rights at Washington. For the following reasons, the complaint is dismissed.

Plaintiff previously submitted to this court a substantially similar complaint against the same defendants alleging the same claims. *See Booker v. Flint*, ECF 1:22-CV-4024, 2 (S.D.N.Y.) (“*Booker I*”). On May 31, 2022, the Court issued an order directing the Clerk of Court to transfer *Booker I* to the United States District for the Northern District of New York because the claims asserted in that action arose in that district. As no useful purpose would be served by transferring this duplicative complaint to the Northern District of New York, which raises the same claims against the same defendants, the Court dismisses the complaint without prejudice to his pending case in the Northern District of New York.

In light of the Court’s belief that Plaintiff may have submitted this duplicate complaint in error, the Court directs the Clerk of Court not to charge Plaintiff the \$350.00 filing fee for this action, and the Warden or Superintendent having custody of Plaintiff shall not deduct or encumber funds from Plaintiff’s prison trust account for this lawsuit.

CONCLUSOIN

The Court dismisses Plaintiff's complaint as duplicative of *Booker v. Flint*, No. 22-CV-4024, 2 (S.D.N.Y. May 31, 2022).

The Court directs the Clerk of Court not to charge Plaintiff the \$350.00 filing fee for this action.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: June 8, 2022
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge